

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,

ROBERT BAY JOHNSON,
Defendant.
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Case No: 3:20-cr-00007-LRH-WGC
**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

The Court having considered the Stipulation between the Plaintiff, United States of America, by and through MEGAN RACHOW, United States Attorney and Defendant, Damian R. Sheets, Esq., counsel for Defendant, ROBERT BAY JOHNSON, and makes the following findings of fact and conclusions of law and enters the following order:

FINDINGS OF FACT

Counsel for the Government was advised by Damian R. Sheets, Esq., counsel for Defendant, ROBERT BAY JOHNSON, that Defense Counsel needs further time to review discovery and prepare for trial.

1. As part of the investigation in this case, Defense Counsel is in the process of reviewing discovery. After examining such, it is possible that there may be a need to file pre-trial motions or supplements to existing motions.
 2. Due to the Covid-19 pandemic and the associated Governor's orders, which include an order to "Stay Home for Nevada", Counsel has been delayed in the investigation of this matter.

3. Defense Counsel will not have sufficient and adequate time to effectively and thoroughly prepare for trial and present an appropriate defense in the above-captioned matter on the date currently set for trial.
 4. Counsel for the Government has been advised by Defense Counsel that, after conferring with his client, they may want to file pre-trial motions and will need an extension of time beyond the currently scheduled motion cutoff date.
 5. Denial of this request for continuance would deny Defense Counsel sufficient time, on the date currently set for trial, taking into account the exercise of due diligence.
 6. Furthermore, denial of this request for continuance could result in a miscarriage of justice.
 7. Defendant is currently in custody and is not opposed to the continuance.
 8. Defense counsel is requesting a Jury Trial date of January 25, 2021 at 8:30am and a Calendar Call of January 14, 2021 at 1:30pm.
 9. This is the second request for a continuance.

For all of the above stated reasons, the ends of justice would best be served by a continuance of the trial date herein.

CONCLUSIONS OF LAW

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h) and Title 18, United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

The ends of justice served by granting said continuance outweigh the best interest of the public and defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny defense counsels sufficient time within which to be able to effectively and thoroughly research and prepare for trial and to submit for filing any appropriate motions, taking into account the exercise of due diligence.

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2 **ORDER**

3 Based on the pending Stipulation of the parties and good cause appearing therefore,
4 **IT IS THEREFORE ORDERED** that the trial in this matter currently scheduled be
5 vacated and continued to January 25, 2021 at the hour of 8:30 a.m.

6 **IT IS FURTHER ORDERED** that the calendar call currently scheduled be vacated
7 and continued to January 14, 2021 at the hour of 1:30 p.m.

8 **IT IS FURTHER ORDERED** that the parties herein shall have to and including Friday,
9 December 11, 2020, by the hour of 4:00 p.m., within which to file any and all pretrial motions
10 and notices of defense.

11 **IT IS FURTHER ORDERED** that the parties shall have to and including Monday,
12 December 28, 2020 , by the hour of 4:00 p.m., within which to file any and all responsive
13 pleadings; and

14 **IT IS FURTHER ORDERED** that the parties shall have to and including Monday,
15 January 4, 2021, by the hour of 4:00 p.m., within which to file any and all replies to dispositive
16 motions.

17 DATED this 10th day of September, 2020.

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22 Larry R. Hicks, United States District Judge